

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-254-E - ORDER NO. 2008-799
NOVEMBER 20, 2008

IN RE: Autherine Tucker, on behalf of Hope Tucker)	ORDER INSTRUCTING
Complainant/Petitioner)	COMPLAINANT TO
)	RESPOND TO MOTION
vs.)	TO DISMISS WITHIN
)	TEN DAYS
Duke Energy Carolinas, LLC)	
Defendant/Respondent)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the motion of Duke Energy Carolinas, LLC (“Duke”) to dismiss the Complaint filed against Duke by Autherine Tucker on behalf of Hope Tucker.

Ms. Autherine Tucker, acting on behalf of and with the permission of Hope Tucker, commenced this docket by filing a complaint letter on or about June 30, 2008. On or about July 31, 2008, Duke filed its answer and moved to dismiss on the grounds that Autherine Tucker had no standing to file the complaint on behalf of Hope Tucker, and that in attempting to act on Hope Tucker’s behalf, she had engaged in the unauthorized practice of law. Duke further based its motion on Tucker’s alleged failure to state a claim upon which relief could be granted, inasmuch as Duke claimed to have been within its rights pursuant to Commission regulations in imposing security deposits to guarantee payment of bills when customers are delinquent in payment. Hope Tucker responded by moving to stay dismissal and by adopting the complaint filed by Autherine Tucker as her own. Duke subsequently submitted the purported payment history of Ms.

Tucker under seal, but Duke did not submit any affidavit or sworn verification supporting its filing.

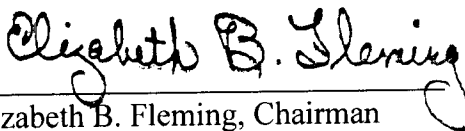
We issued a Directive on October 22, 2008, instructing Duke to provide a sworn verification of all information it wishes to be considered in support of its motion to dismiss. Commission Regulation 103-822 provides, in part: “A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading.”

In response to our Directive, Duke filed an appropriate affidavit verifying its submissions with regard to Ms. Tucker’s account on November 5, 2008.

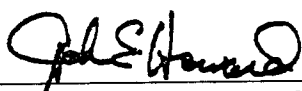
By this Order, Ms. Tucker is instructed to submit any response to Duke’s filing within ten (10) days of receipt of this Order. If Ms. Tucker fails to respond accordingly, the Commission may grant the motion to dismiss as unopposed.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman

(SEAL)